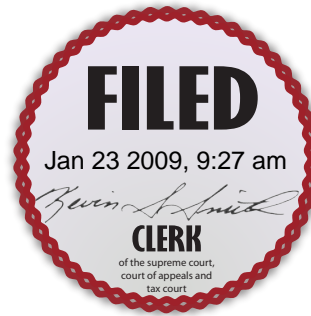


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

WARREN PARKS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 24A01-0807-CR-353
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE FRANKLIN CIRCUIT COURT
The Honorable J. Steven Cox, Judge
Cause No. 24C01-0608-FD-608

January 23, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant, Warren Parks, *pro se*, appeals the trial court's denial of his motion to dismiss his probation violation case pursuant to Criminal Rule 4(B). We affirm.

Discussion and Decision

Parks pled guilty to three counts of theft in 2006. After completing his executed sentence, according to Parks, he failed to report for probation. Although the appendix does not contain any indication of when Parks was released to probation, the filing of a notice of violation of probation or the issuance of a warrant, Parks filed a motion for a speedy trial pursuant to Criminal Rule 4(B)(1). Five days later, Parks filed a motion to dismiss pursuant to the same rule, alleging that more than seventy days had elapsed from his request and he had not yet had a trial. On June 4, 2008, the trial court denied the motion to dismiss.

Not only did Parks file the motion to dismiss less than seventy days after his motion for a speedy trial but Criminal Rule 4(B) does not apply to probation proceedings. “There is no right granted in [Criminal Rule 4] to a speedy trial upon pending probation or parole revocation proceedings stemming from the same conduct or episode[.]” Oliver v. State, 431 N.E.2d 98, 100 (Ind. 1982). Furthermore, Parks does not dispute his failure to report for probation and has not made a cogent argument to demonstrate the length of the delay, the reason for the delay or any resulting prejudice. See Wilburn v. State, 671 N.E.2d 143, 148 (Ind. Ct. App. 1996) (Where C.R. 4 does not apply, the reviewing court engages in the Barker four-factor balancing test in evaluating claims of violations of the right to a speedy trial.), trans. denied. Therefore, the trial court properly denied the motion to dismiss pursuant to

Criminal Rule 4(B).

Affirmed.

MATHIAS, J., and BARNES, J., concur.